

GAR Associates LLC
Professional Service Agreement
Reassessment
Project
Town of Rochester

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Real Estate Appraisers and Consultants
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PROPOSAL

AGREEMENT
FOR
PROFESSIONAL SERVICES

This agreement ("Agreement") made this 13th, of June 2024 by and between the Town of Rochester, a Town in the County of Ulster and the State of New York, with offices at Town Hall 50 Scenic Road, Accord, NY 12404, (hereinafter referred to as the "TOWN") and GAR ASSOCIATES LLC, a New York limited liability company, having a principal place of business at 5500 Main Street Suite 348, Williamsville, New York 14221, (hereinafter referred to as the "CONTRACTOR").

WHEREAS, the TOWN authorized the undertaking of the reassessment update project of all parcels of real property located within its geographic boundaries for the purpose of preparing the final tax roll for July 1, 2026. This hereinafter referred to as the "Project"; and

WHEREAS, the TOWN requested a Proposal for a reassessment project services and the CONTRACTOR, has submitted a proposal dated April 18, 2024, a copy attached hereto and made part of this Agreement and information provided by the TOWN from other communications from the TOWN. There are no other proposals.

NOW, THEREFORE, for and in consideration of the mutual promises hereinafter set forth, and for other good and valuable consideration, the parties hereto agree as follows:

1. EMPLOYMENT

The TOWN engages the CONTRACTOR, and the CONTRACTOR hereby agrees to provide the professional services requested under the proposal for reassessment services outlined by the CONTRACTOR.

2. SERVICES & RESPONSIBILITIES

Upon execution of this Agreement and until completion of the TOWN reassessment Project (anticipated to be on or about July 1, 2026) the CONTRACTOR will provide professional real property revaluation support services (see * below) and undertake activities relating thereto all particularly set forth herein. Support services include but are not limited to |

“Reassessment and Support Services”. Under the fixed price set forth, the CONTRACTOR is **NOT** responsible for valuation of the highly complex parcels identified by the TOWN as set forth in Exhibit D of this Agreement. In the event the TOWN will require the CONTRACTOR to provide valuation on any of the Unique and or Highly Complex Parcels identified in Exhibit D or any other parcels identified after this Agreement is executed, the CONTRACTOR will submit an estimate cost fee which will require a separate approval prior to any work being performed.

The Town has agreed to exercise the option identified in the proposal for capturing new digital photographs of all improved parcels for an additional cost of

The TOWN agrees that the CONTRACTOR shall be the TOWN’s exclusive provider of Support Services and Reassessment Services for the Project as defined above for the term of this Agreement. The TOWN shall not engage the services of any consultant, subcontractor or any other party or entity to perform any aspect of the Support Services and Reassessment Services for the Project during the term of this Agreement, without the prior written consent of the CONTRACTOR.

ROLL SECTION RESPONSIBILITY GRID

<u>ROLL SECTION</u>		<u>RESPONSIBLE PARTY</u>
1	Taxable	CONTRACTOR
3	State Owned Properties	ORPTS
5	Special Franchise	ORPTS and TOWN
6	Utility **	ORPTS and TOWN Structural** CONTRACTOR - Land & Buildings Only
7	Railroads	ORPTS and TOWN
8	Wholly Exempt	CONTRACTOR

The Revaluation is in preparation for the 2026 final tax rolls used in establishing the TOWN’s tax base.

**For utility properties, the CONTRACTOR shall determine the land values and structures only. NYSORPTS and the TOWN shall be responsible for determining the values of the inventory of utility parcels.

The parties recognize that the objective of this Agreement is to bring the TOWN’s equalization rate to 100% and the CONTRACTOR will employ commercially reasonable efforts to achieve this objective. The parties further recognize that the objective of this Agreement is to have a revaluation of the TOWN’S tax roll completed by the July 1, 2026, Final Assessment Roll filing date, and the terms and conditions of this Agreement are entered into with this understanding.

Promptly after the execution of this Agreement, the TOWN shall provide the CONTRACTOR with inventory data cards in either (or both) paper and electronic form for all parcels which shall be the CONTRACTOR's responsibility under this Agreement. In addition, the TOWN shall use commercially reasonable, good faith efforts to cooperate and collaborate with the CONTRACTOR to support the CONTRACTOR's efforts under this Agreement including, without limitation, working together with the CONTRACTOR to obtain the assistance and cooperation of the Ulster County Real Property Tax Office and the TOWN's IT Department and the New York State Office of Real Property Services as may be necessary or helpful to complete the Project described in this Agreement.

The TOWN acknowledges that changes in the TOWN'S assessment staff, specifically the TOWN Assessor during the term of the Project could impact the timing of meeting Project milestones and providing Project deliverables. If the TOWN Assessor as of the date of this Agreement is no longer actively working on the Project during the term hereof, the parties acknowledge that there may be additional costs for the time spent on transition to substitute personnel for the TOWN. In such event, the parties hereby agree to reasonably negotiate with each other in good faith to adjust the price (compensation amount) for services under this Agreement in the event the change in the TOWN Assessor during the term of the Project should have a material impact on the timing and/or budget of the Project.

3. TERM

This Agreement shall commence on June 13th, 2024 and shall continue until CONTRACTOR's work hereunder is completed which is anticipated to be on or about July 1, 2026.

4. COMPENSATION

For all professional services provided by the CONTRACTOR, the TOWN agrees to pay to the CONTRACTOR the aggregate sum of

for the Reassessment and Support Services as outlined in the CONTRACTOR's proposal and additional fees for digital photographs of _____ set out in the "Payment Schedule and Terms of Payment" attached to and made a part of this Agreement. In the event any additional parcels are identified as Unique and or Highly Complex after the execution of this Agreement, both parties will negotiate in good faith to determine additional costs to be paid to the CONTRACTOR to provide valuation services similar to those already identified. All invoices provided to the TOWN shall be paid promptly and no later than thirty (30) days, after receipt by the TOWN, together with such form of invoice and such

supporting documentation as the TOWN may require, after which interest will accrue on a daily basis using a monthly rate of one percent (1%). The TOWN shall make progress payments pursuant to the "Payment Schedule and Terms of Payment" attached hereto as Exhibit A after receipt of the CONTRACTOR'S monthly invoice.

5. LIABILITY INSURANCE

The CONTRACTOR shall maintain in full force and effect adequate insurance as required by the TOWN and shall file a certificate of insurance and statement of policy declaration demonstrating such with the office of the Town Clerk prior to performing this Agreement or receiving any payment hereunder. The General Liability, Excess Umbrella Liability and Workmen's Compensation insurance shall name the TOWN as an additional insured. Such insurance shall provide for notice to the TOWN at least thirty (30) days prior to any termination or any amendment (See Exhibit B).

6. TERMINATION

The CONTRACTOR may cancel this Agreement in the event of non-payment by the TOWN of any sum due hereunder for thirty (30) days following the day such payment first fell due or in the event that the TOWN does not meet the obligations as outlined in this Agreement; however, the CONTRACTOR must provide to the TOWN with thirty (30) days advance written notice of its intention to terminate. The TOWN shall have an additional ten (10) days following receipt of such notice in which to cure the same. The TOWN may cancel this Agreement only in the event of breach by the CONTRACTOR of its obligations hereunder and the continuation of such breach following thirty (30) days advance written notice to the CONTRACTOR, and the opportunity to cure, from the TOWN specifying such breach in reasonable detail.

In the event unilaterally between the TOWN and decides to cancel the Reassessment Project for any reason, the CONTRACTOR will be paid for all services rendered up to cancelation and will promptly owe the CONTRACTOR a cancelation fee of 25% of the unpaid balance.

Both parties may mutually agree in writing to terminate this Agreement at any time. The CONTRACTOR will be paid for all services rendered up to cancelation. This amount may be more than payments received up to cancelation to the TOWN for any work in progress.

7. WAIVER OF BREACH

The failure of either party to enforce at any time any provision of this Agreement, including all attachments, shall not affect or impair the validity of the provisions of this Agreement.

8. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed to by the parties hereto, and no other agreements oral or otherwise regarding the subject matter of this Agreement shall be deemed to exist or bind either party. This Agreement may be modified and amended at any time upon mutual agreement, in writing, and signed by both parties.

9. INDEPENDENT CONTRACTOR

The relationship of the CONTRACTOR to the TOWN shall be that of an independent contractor and no principal-agent or employee-employer relationship is created by this Agreement.

10. OWNERSHIP OF DATA

All data and information collected by or on behalf of the CONTRACTOR or the TOWN shall be the property of the TOWN. All such data or information used by the CONTRACTOR in the Reassessment and Support Services contemplated herein shall remain the property of the TOWN and no use or copying shall be made thereof beyond that listed in this Agreement without the prior written permission of the TOWN.

The CONTRACTOR, upon request from the TOWN, shall provide the TOWN with a detailed list of information and data delivered and the TOWN will provide the CONTRACTOR with written confirmation that the information turned over was complete and satisfactory.

11. EMPLOYMENT LAWS

The CONTRACTOR shall comply with all the applicable provisions of Federal and New York State Laws, rules and regulations regarding employment and shall further specifically comply with those sections related to discrimination.

12. DOCUMENTS

Upon the completion of the Project, the CONTRACTOR shall deliver to the TOWN any required documents as previously agreed to by the CONTRACTOR and the TOWN.

13. LAWS GOVERNING

This Agreement shall be construed in accordance with the laws of the State of New York without regard for reference to its conflict of laws principles.

14. NON-DISCLOSURE

In order to protect the interests of the TOWN, and the CONTRACTOR, no valuation data related to the Reassessment and Support Services will be released to the general public without the express written consent of the TOWN. Notwithstanding the foregoing, if the CONTRACTOR becomes required by law or applicable legal process (by deposition, interrogatory, request for documents, subpoena, court order, civil investigative demand or similar process) to disclose any valuation data, the CONTRACTOR shall provide the TOWN with prompt prior written notice of such requirement and the terms of and circumstances surrounding such requirement so that the TOWN may seek an appropriate protective order or other remedy, or waive compliance with the terms of this Agreement, and the CONTRACTOR shall provide such cooperation with respect to obtaining a protective order or other remedy as TOWN shall reasonably request. If a protective order or other remedy is not obtained, or if the TOWN is required to waive compliance with the provisions hereof, the CONTRACTOR will furnish only that portion of such valuation data which, as it is advised in a written opinion by its counsel, it is legally required to furnish. The TOWN shall indemnify and hold the CONTRACTOR harmless from all costs, expenses, and judgments, including reasonable attorney's fees incurred in connection with any request for a protective order or similar type relief opposing the production of the valuation data. Subject to the obligations and responsibilities of this Section as set forth above, upon delivery to the TOWN Project Administrator all specific work products shall belong to the TOWN and the CONTRACTOR shall not sell or otherwise disclose any information concerning specific properties or classes of property within the TOWN during or after the completion of this Agreement without the express written consent of the TOWN.

15. U.S.P.A.P COMPLIANCE

All valuation and appraisal methodology will be utilized in accordance with U.S.P.A.P. (Uniform Standards of Professional Appraisal Practice) Standards and will be performed on all parcels according to the terms of this Agreement. The CONTRACTOR agrees and the TOWN acknowledges the U.S.P.A.P. compliance required by the CONTRACTOR. Furthermore, the TOWN acknowledges that under the U.S.P.A.P. compliance, the CONTRACTOR is obligated to support any and all assessment valuations developed by the CONTRACTOR and accepted by the TOWN, for the purpose of the revaluation Project. Accordingly, at the TOWN's discretion and written request, the CONTRACTOR shall appear as an expert witness on behalf of the TOWN in all certiorari proceedings resulting from the final assessed values, which

the CONTRACTOR made, and which were placed on parcels on the final assessment roll and only if that grievance has been filed prior to grievance day. This service is not part of the CONTRACTOR's fixed price but will be billed at an hourly rate ranging from \$100 per hour to \$325 per hour, depending on the hourly rate of the representative of the CONTRACTOR required to testify for developing documentation and otherwise preparing to testify as well as actually appearing and delivering testimony. Notwithstanding the foregoing, the TOWN may but shall not be obligated to retain the CONTRACTOR to do a formal "trial ready" appraisal in connection with a tax certiorari proceeding as a separately performed and separately priced service outside of this Agreement.

The CONTRACTOR will not provide any appraisal services on behalf of a petitioner in a proceeding under New York Real Property Tax Law Article 7 during the duration of the term of this Agreement and for a period of one (1) year following such term, provided, however (i) CONTRACTOR's agreement to be bound for the 1-year period following the term of this Agreement shall not apply if this Agreement is terminated prior to its anticipated expiration pursuant to Section 6 hereof, and (ii) during such 1-year period, CONTRACTOR shall have a right of first offer to provide appraisal services to the TOWN in connection with any such Article 7 proceedings commenced during such period on terms and conditions mutually acceptable to the CONTRACTOR and the TOWN.

16. NOTICES

All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the first page of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile or e-mail of a PDF document (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid).

17. AVAILABILITY OF DATA/FILES.

Upon request and for the duration of this Agreement, the TOWN shall provide the CONTRACTOR access to the TOWN'S RPS.db and any related assessment software files, any and all related image files and any other project-related files (i.e. "electronically stored", hard copies etc.) required to perform Project tasks and maintain the Project timelines. The TOWN acknowledges that delays in the CONTRACTOR's access to the above-described items can cause delays in meeting Project deadlines and increase costs to the CONTRACTOR. In the event the CONTRACTOR incurs additional costs as a result of

the TOWN's failure to provide timely access to the above-mentioned project files, the CONTRACTOR reserves the right to pass on such verifiable additional costs to the TOWN and the TOWN shall pay the same within thirty (30) days of the CONTRACTOR's invoice thereof.

18. FORCE MAJEURE.

As used herein, "Force Majeure" shall mean acts of God, fire, severe weather conditions, casualty, explosion, riot, war, acts of terrorism, labor disputes, strikes, governmental restrictions, disruption of the transportation system, inability to obtain data or access to the same from the TOWN and/or other third party necessary to perform the Project and Support Services and/or any other causes (other than financial) beyond a party's reasonable control. If either party shall be delayed or prevented from performing under this Agreement as the result of Force Majeure event, then such performance will be excused for a period equivalent to the period of the delay. The inability to obtain financing or lack of money alone will not constitute Force Majeure event, and this provision will not excuse non-payment of monies.

19. ASSIGNMENT.

This Agreement may not be assigned by either party without the prior written consent of the other party. Subject to the limits on assignment stated above, this Agreement will inure to the benefit of, be binding on, and be enforceable against each of the parties hereto and their respective successors and assigns. Except as may be expressly provided or incorporated by reference herein, no provision of this Agreement is intended, nor shall it be interpreted to provide or create any third-party beneficiary rights or any other rights to any other person or entity not a party herein.

20. COUNTERPARTS.

This Agreement may be executed in multiple counterparts and by facsimile signature, each of which shall be deemed an original and all of which together shall constitute one instrument.

21. NO GUARANTY.

Notwithstanding the foregoing, nothing in this Agreement or otherwise shall be construed as a guaranty of the CONTRACTOR's assessment of market value of any parcel of real property covered by this Agreement, it being understood and agreed that the techniques and procedures to be employed hereunder by the CONTRACTOR have been developed for mass appraisal. **Any and all guarantees are**

expressly denied.

22. USE OF SUBCONTRACTORS

The CONTRACTOR may utilize subcontractors to assist in the reassessment Project upon prior approval from the TOWN.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 13th day of June , 2024.

TOWN OF ROCHESTER, NEW YORK

BY, 

GAR ASSOCIATES LLC



BY, _____

David M. Barnett, MAI, SRA

President/Member

(Seal)

(Seal)